

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Bandwidth.com CLEC, LLC	:	
	:	
Petition for Emergency Relief to protect	:	10-0067
Petitioner's Annual Report from disclosure	:	
for not less than two years in order to	:	
protect highly proprietary information.	:	

ORDER

By The Commission:

On January 26, 2010, Bandwidth.com CLEC, LLC ("Petitioner") filed a verified Petition requesting that its Annual Report (AR-13) for the year ending December 31, 2009, be treated by the Commission as confidential and proprietary information for a period of no less than two years. Petitioner states that the subject Annual Report contains highly proprietary and confidential commercial and financial information that, if disclosed to the competitors, would be detrimental to Petitioner.

Section 5-109 of the Illinois Public Utilities Act ("Act"), 220 ILCS 5/5-109, states, in relevant part, that "[a]ll reports made to the Commission by any public utility and the contents thereof shall be open to public inspection, unless otherwise ordered by the Commission."

Section 4-404 of the Act, 220 ILCS 5/4-404, states that the "Commission shall provide adequate protection for confidential and proprietary information furnished, delivered or filed by any person, corporation or other entity."

Section 7(g) of the Illinois Freedom of Information Act, 5 ILCS 140/7, in pertinent part, exempts from public disclosure "commercial or financial information obtained from a person or business where such... information [is] proprietary, privileged or confidential, or where disclosure of such...information may cause competitive harm."

83 Ill. Admin. Code Section 200.430 states that "[a]t any time during the pendency of a proceeding, the Commission or the [Administrative Law Judge] may, on the motion of any person, enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies."

The foregoing statutes and regulation authorize the Commission to exempt commercially sensitive information from public disclosure. Based on the verified statements of Petitioner, we conclude that it is appropriate for the Commission to treat the subject Annual Report as confidential and proprietary for a period of two years from the date of this Order. No evidentiary hearing is necessary for the resolution of this matter.

Findings and Ordering Paragraphs

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Petitioner is a “telecommunications carrier” within the meaning of Section 13-202 of the Act;
- (2) the Commission has jurisdiction over Petitioner and over the subject matter herein;
- (3) the recitals of facts and conclusions reached in the prefatory portion of this Order are supported by the verified petition and are hereby adopted as findings of fact;
- (4) Petitioner’s Annual Report (AR-13) for the year ending December 31, 2009, should be treated by the Commission as confidential and proprietary for a period of two years from the date of this Order;
- (5) Petitioner should file with the Chief Clerk’s office both a proprietary Annual Report and a redacted public Annual Report along with a cover letter indicating that proprietary treatment was granted in this Docket and stating the date on which this Order was entered. Only the specific information deemed proprietary should be redacted from the public version; the Annual Report should not be redacted in its entirety.

IT IS THEREFORE ORDERED that the Petition of Bandwidth.com CLEC, LLC, for confidential and proprietary treatment of its Annual Report (AR-13) is granted and that said report shall be exempt from public disclosure for a period of two (2) years from the date of this Order.

IT IS FURTHER ORDERED that Petitioner shall file with the Chief Clerk’s office both a proprietary Annual Report and a redacted public Annual Report along with a cover letter indicating that proprietary treatment was granted in this Docket and stating the date on which this Order was entered. Only the specific information deemed proprietary shall be redacted from the public version; the Annual Report shall not be redacted in its entirety.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code Section 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 10th day of March, 2010.

(SIGNED) MANUEL FLORES

ACTING CHAIRMAN